IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9857 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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MANGALBHAI KALUBHAI KHANT

Versus

GEB

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Appearance:

1. Special Civil Application No. 9857 of 1999

MR TR MISHRA for Petitioner No. 1-9

RULE NOT RECD BACK for Respondent No. 1

MR MD PANDYA for Respondent No. 2

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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 13/11/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Mishra for the

petitioner and Mr. M.D. Pandya, learned advocate for the respondent Board. According to the petitioners, the petitioners are working in the respondent NO.2 at Gandhinagar at present. The petitioners were originally recruited as Nominal Muster Roll Employees as Helpers and in view of the decision of the apex court and the General Standing Orders issued by the respondents from time to time, the petitioners were made regular employees since 1983-84. According to the petitioners, most of them are the tribals hailing from nearby villages at Kadana Project and were appointed at the said project since 1983-84. It is their case that on account of declaring the petitioners being surplus, they were transferred to Gandhinagar Thermal Power Station vide order dated 13.11.1998. Now, since 13.11.1998, they are working at Gandhinagar TPS. At present, 27 vacancies are to be filled up at Kadana Project of District Panchmahals from where these tribals are hailing. Representations have been made by the petitioners to the respondent authorities. According to them, it was learnt that the decision was also taken to transfer them back at their original place i.e. Kadana Hydro Ele. Project, Kadana but some how or the other, the same is not being materialized and according to their information, those 27 posts are going to be filled up by transferring the employees from various places, ignoring the legitimate claim of the petitioners. It is the grievance voiced by the petitioners that they being the scheduled tribe community people, their case is not being considered and, therefore, present petition has been filed by them.

During the course of hearing, it was pointed out by the learned advocate Mr. Mishra appearing for the petitioners that detailed representation has been made to the Hon'ble Minister on 29th June, 1999 but no response has been given by the respondents. On behalf of the respondents, detailed affidavit has been filed. In para 7 thereof, the deponent has submitted that the present dispute of the petitioners is regarding transfer to the Kadana Hydro Electric Power and that only the petitioners namely MB Damor; SL Damor and KM Damor have applied for their request transfer and the remaining petitioners have not applied for request transfer to Kadana Hydro Electric Power Project and that the petitioners who have applied for request transfer, their names have been registered in the Request Priority Register and as and when No Objection Certificates are received from the said offices, their request transfer orders shall be issued as per the Rules of the Board. In para 8 of the reply, the deponent has also submitted that as per the new Post Based Roaster Policy, only those candidates / employees

can be appointed / transferred who belong to the respective reserved category for which the post has fallen vacant. In the same para, the deponent has further submitted that all the petitioners are belonging to the Scheduled Tribe Category and as and when the vacancies for the said category arise and when the NOC in their favour is issued, their case shall be considered suitably in accordance with the rules of the Board.

Therefore, considering the averments made by the deponent on behalf of the Board in para 7 and 8 of the reply, according to my opinion, the respondents will consider the case of the petitioners as and when such occasion will arise in respect of the said category. However, till this date, if the petitioners' cases have not been considered by the Board for their transfer at Kadana from Gandhinagar, then, it will be open for the petitioners to again make a detailed representation in view of the averments made by the deponent in the reply filed on behalf of the respondents. As and when any such representation is filed by the petitioners, it is directed to the respondents to consider and decide the same while keeping in view the averments made by the deponent in the affidavit in reply filed on behalf of the respondent Board, more particularly in para 7 and 8 of the reply and to pass appropriate order in accordance with law and the rules and regulations of the Board.

In view of these observations and directions, this petition is disposed of. Rule is discharged. Interim relief, if any shall stand vacated. There shall be no order as to costs.

Dt.13.11.2003. (H.K. Rathod,J.)

Vyas